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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,023	05/23/2001	Toshiro Mise		7278

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/863,023

Applicant(s)

MISE, TOSHIRO

Examiner

Steven B. McAllister

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Generally, it is not clear what is being claimed due to the literal translation.

As to claims 4 and 7, the claims recite "and/or" which is indefinite.

Claims 3-9 are interpreted as apparatus claims. It is noted that claims 4, 6-9 appear to show only the use of the apparatus, and not further limitations.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Vasell et al (6,496,575).

As to claim 3, Vasell et al show a home information communication terminal unit connected to an indoor LAN; a service communication server of the service provider; a supervisory server comprising servers operated by the network operator; wherein the recited apparati are capable of performing there recited tasks.

As to claims 4 and 6-9, it is noted that the claims appear only to show the use of the apparatus and do not provide further limitations. In order to further prosecution, however, the claims will be treated as if providing further limitations.

As to claim 5, Vasell et al show temporary memory in the communication terminal unit related the service being provided and data related to the environment of the house and where the terminal sends data back to the supervisory terminal.

As to claim 8, Vasell et al show communicating with a communication server on the communications network to download software software for a service.

As to claim 9, Vasell et al show the communication terminal unit downloading a service application program on behalf of the service provider.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vasell et al.

Interpreting the claims as best understood by the examiner, Vasell et al show receiving an access request from a service provider's server for access to a communication terminal unit at a user's house; authenticating the request; providing access to the terminal only if there is proper authentication; and monitoring the transmissions between the terminal unit and the service provider server.

Alternatively, Vasell et al show all elements of the claim except that the service provider requests access to access the terminal unit and providing access if the authentication is proper. However, it is notoriously old and well known in the art to do so. It would have been obvious to modify the method of Vasell et al by having the

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service provider request access and having the network operator authenticate and allow passage in order to maintain system security and ensure proper functioning and maintenance of the system.

As to claim 2, it is noted that Vasell et al show downloading service software from the service provider to the terminal unit and executing the software.

Claims 4, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasell et al.

As to claim 4, Vasell et al show the terminal unit monitoring the operation of a living facility via the LAN. Vasell et al do not explicitly show reporting back during abnormal conditions. However, it is notoriously old and well known to do so. For instance, Vasell et al discuss using the system to monitor alarms. It would have been obvious to one of ordinary skill in the art to report back in case of abnormality in order to alert the service provider so that they can respond.

As to claim 6, Vasell et al show all elements except recording costs at the supervisory server for services provided by the provider acting through the server. However, to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the apparatus in order to record such charges since it is the supervisory server which controls and interacts with the end users terminal.

As to claim 7, Vasell et al show all elements except stopping normal operation of the terminal unit when an emergency signal is sent to the terminal unit. However, to do so is notoriously old and well known in the art. For instance radios and alarm systems exist which upon a signal indicative of a tornado, cease normal operation and go into emergency operation. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Vasell et al by having the terminal unit go into an emergency mode upon receipt of an indication of emergency conditions from the server.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven B. McAllister